

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Short, et al.  
Serial No. : 09/866,379  
Filed : May 24, 2001  
Title : RECOMBINANT BACTERIAL PHYTASES AND USES THEREOF

Art Unit : 1652  
Examiner : Delia M. Ramirez, Ph.D.

Commissioner for Patents  
Attn: Examiner Ramirez  
1911 S. Clark Street  
Crystal Mall I  
7<sup>th</sup> Floor Reception  
Tech Center 1600  
Arlington, VA 22202

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TRANSMITTAL OF OFFICE ACTION RESPONSE ORIGINALLY FILED 3/26/03

With respect to our telephone conversation, enclosed please find a duplicate copy of the documents responsive to the non-final office action mailed December 27, 2002, which were filed on March 26, 2003.

Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date:

Aug 12, 2003

Gregory P. Einhorn  
Gregory P. Einhorn  
Reg. No. 38,440

Fish & Richardson P.C.  
4350 La Jolla Village Drive, Suite 500  
San Diego, California 92122  
Telephone: (858) 678-5070  
Facsimile: (858) 678-5099

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August 12, 2003  
Date of Deposit

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Commissioner for Patents  
 Washington, D.C. 20231

TRANSMITTAL LETTER

Correspondence relating to this application is enclosed. The required fees are computed below. Please apply any charges not covered, or any credits, to Deposit Account No. 06-1050.

Total Claims	27	-	90	=	0	\$0
Independent	2	-	14	=	0	\$0
First Presentation of Multiple Dependent Claims						\$0

Applicant hereby petitions under 37 C.F.R. §1.136 for a 0 month extension of time.

TOTAL FEE DUE

\$0

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Respectfully submitted,

AUG 14 2003

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Date:

3/26/2003

*Mi K. Kim*  
 Mi K. Kim

Reg. No. 44,830

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## CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 2327, Arlington, VA 22202.

March 26, 2003

Date of Deposit

Signature

*Deborah K. Sim*

Deborah K. Sim

Typed or Printed Name of Person Signing Certificate

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Attorney's Docket No. 09010-029006	Express Mail Label No.	Mailing Date March 26, 2003	<b>For PTO Use Only</b> Do Not Mark in This Area
Application No. 09/866,379	Filing Date May 24, 2001	Attorney/Secretary Init MKK/dks	
Title of the Invention RECOMBINANT BACTERIAL PHYTASES AND USES THEREOF			
Applicant Short, et al.			
Enclosures Transmittal Letter (1 page); Amendment/Response (38 pages) Transmittal of Formal Drawings (1 page); Drawings (formal, 10 sheets); Verified Statement under 37 CFR § 1.821(f) (1 page); Paper Copy of Sequence Listing (13 pages); Notification of Receipt of Deposit (1 page); Copy of Sequence Listing in Computer Readable Form; 3 sheets of drawings marked in red; Declaration Under 37 C.F.R. § 1.132 (3 pages); Declaration for a Deposit Made Under the Budapest Treaty (2 pages)			



# ATCC

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-365-2745

## BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

### INTERNATIONAL FORM

#### RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3 AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

DIVERSA Corporation  
Attn: Lynn Linkowski  
4955 Directors Place  
San Diego, CA 92121

Deposited on Behalf of: DIVERSA CORPORATION

Identification Reference by Depositor:

Patent Deposit Designation

Plasmid: 819PH59 in E.coli XLI-Blue

PTA-4822

The deposit was accompanied by: ☐ a scientific description ☐ a proposed taxonomic description indicated above.

The deposit was received November 26, 2002 by this International Depository Authority and has been accepted.

AT YOUR REQUEST: ☒ We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested December 4, 2002. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

Marie Harris  
Marie Harris, Patent Specialist, ATCC Patent Depository

Date: January 6, 2003

cc: Gregory Einhorn  
(Ref: Docket or Case No.: 09010-029006)

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**BOX SEQUENCE**

U.S. Patent and Trademark Office  
P.O. Box 2327  
Arlington, VA 22202

VERIFIED STATEMENT UNDER 37 CFR §1.821(f)

I, Jennifer H. Payne, declare that I personally prepared the paper and the computer-readable copy of the Sequence Listing filed herewith for the above-identified application and that the content of both is the same.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of The United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: December 23, 2002

  
Jennifer H. Payne

Fish & Richardson P.C.  
4350 La Jolla Village Drive, Suite 500  
San Diego, California 92122  
(858) 678-5070 telephone  
(858) 678-5099 facsimile

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3/26/2003  
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Deborah K. Sim  
Typed or Printed Name of Person Signing Certificate

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RESPONSE AND AMENDMENT

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Responsive to the non-final Office Action mailed December 27, 2002 (hereinafter "Office Action"), Applicants respectfully request entry of the amendments and consideration of the remarks set forth herein. A response is initially due March 27, 2002. Accordingly, this Response is timely filed.

The following documents are also enclosed herewith:

- Transmittal letter;
- Declaration Under 37 C.F.R. §1.132 with copy of Notification of Receipt of Deposit;
- Declaration For A Deposit Made Under the Budapest Treaty;
- Corrected Paper Copy of Substitute Sequence Listing;
- Corrected Computer Readable Form of Substitute Sequence Listing;
- Verified Statement Under 37 CFR §1.821(f);
- Copy of Transmittal of Formal Drawings to Official Draftsperson;
- Copy of amended Figures 1 and 8 and copy of Figure 8 submitted on November 13, 2002, with changes in red ink; and
- Postcard.

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**Attention: Official Draftsman**  
Commissioner for Patents  
Washington, D.C. 20231

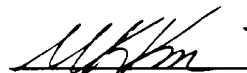
TRANSMITTAL OF FORMAL DRAWINGS

Please substitute the enclosed 9 sheets of formal drawings for the corresponding drawings presently in the application.

Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 3/26/2003



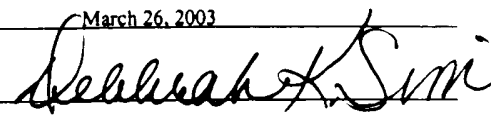
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